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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,319	12/29/2000	Robert Walter Schreiber	52817.000122	6995

29315 7590 12/30/2003

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON, VA 20190

EXAMINER

VEILLARD, JACQUES

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,319

Applicant(s)

SCHREIBER, ROBERT WALTER

Examiner

Jacques Veillard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. This action is responsive to the Applicant's communication filed on 9/8/2003.
2. Claims 1, 6, 11, and 16 have been amended.
3. Claims 1-20 are presented for examination.

Response to Arguments

4. Examiner has completed a through study of the applicant's arguments filed on September 8, 2003 (Paper No.11). These arguments have been fully considered but they are not persuasive for set forth below.

Applicant argued that the cited prior art (Lau U.S. Pat. No. 6,101,500) does not describe (or even suggest) the features of "enabling client terminal users to create hierarchical data structure" as recited in claims 1, 6, 11, and 20.

In response to the applicant's argument, the law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art", it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. ***Colman v. Kimberly-Clark Corps., 218 USPO 798.***

As per claims 1, 6, 11, and 16, Applicant argued that the cited prior art (mainly Lau) does not describe (or even suggest) "enabling client terminal users to create hierarchical data structure". The Examiner respectfully disagrees with the preceding argument because the Applicant fails to appreciate the breadth of the claims. In particular, Lau discloses a system for

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managing objects in a hierarchical data structure (See the abstract) by enabling a network administrator to do the task (managing objects in a hierarchical data structure) wherein the network administrator is a user which has the network administrator right to manage and create hierarchical data structure (See col.4, lines 30-59, and col.6, line 43 through col.7, line 43).

The examiner asserts that the cited prior art (mainly Lau) discloses or suggest the subject matter broadly recited in claims 2, 3, 7, 8, 12, 13, 17, and 18 (See rejection of claims 2, 3, 7, 8, 12, 13, 17, and 18 as set forth in the office action Paper No.8).

Furthermore, as per claims 4, 5, 9, 10, 14, 15, 19, and 20, applicant argued that there is no reasons to combine Lau in view of Becker.(U.S. Pat. No.6,034,697). In response to applicant's argument, the examiner recognizes that references can not be arbitrarily combined and that there must be some reason why one skilled in art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya, 184 USPO 607 (CCPA 1975)*. However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin, 170 USPO 209 (CCPA 1971)*. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek, 163 USPO 545 (CCPA 1969)*. In this case, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made modify the teachings of Lau with the teachings of Becker to incorporate in Lau's system a three dimensional color space as taught by Becker with the motivation for a user to visualize data into a multivariate color for the smooth of a scatter plot along one or more additional dimensions.

Therefore, the examiner asserts that the cited prior arts (mainly Lau) in combination with

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Becker, U. S. Pat. No.6,034,697) teach or suggest the subject matter broadly recited in claims 4, 5, 9, 10, 14, 15, 19, and 20 as required under 35 U.S.C. 103 (a). (See rejections of claims 4, 5, 9, 10, 14, 15, 19, and 20 as set forth in the office action paper No. 8).

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any response to this action should be mail to:

Commissioner of Patent and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 746-7239 (for formal communication intended for entry)

Or:

(703) 746-7240 (for informal of draft communications, please label

“PROPOSED” or “DRAFT”)

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Hand - delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington. VA, Fourth Floor Lobby (Receptionist Telephone No. (703) 305-3900).

7. . Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques Veillard whose telephone number is (703) 305-7094. The examiner can normally be reached Monday through Friday from 9:30 AM to 4: 30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici, can be reached on (703) 305-3830. The fax phone number for this group is (703) 308-5403.


CHARLES RONES
PRIMARY EXAMINER



Jacques Veillard
Patent Examiner TC 2100

December 22, 2003